



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,106	09/22/2003	John E. Ramsey	HEND-AV	3090

24120 7590 06/28/2005

DAVID P DURESKA
BUCKINGHAM DOOLITTLE & BURROUGHS, LLP
4518 FULTON DRIVE, NW
P O BOX 35548
CANTON, OH 44735-5548

EXAMINER

ILAN, RUTH

ART UNIT	PAPER NUMBER
----------	--------------

3616

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,106

Applicant(s)

RAMSEY, JOHN E.

Examiner

Ruth Ilan

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/23/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1 and 8, the word "means" is preceded by the word "tank" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). The same problem occurs in claims 5, 7, 9, 11, and 13 with the phrase "bracket means". Further regarding claim 1, lines 7-9 recite "said tank means generally extending between and being secured to selected ones of said frame main members and said hangers" It is unclear if this is intended to be alternative language, or if both a frame member and a hanger must be used, or secured to. For the purposes of examination, it is assumed that alternative language is what is intended, that is either frame members, or hangers or both, but not necessarily both, is what is being claimed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3616

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1- 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce et al. (US 5,642,896) in view of Kamio (JP 9-2323 and attached English language abstract.) Pierce et al. teaches the vehicle described in the Jepson preamble to claim 1, including spaced apart elongated parallel main members, a suspension assembly hanger, and a vehicle component requiring compressed air (33) but does not disclose the tank that stores the air, and fails to teach that tank forms part of the structure of the frame. Kamio teaches (as related in the abstract) that it is advantageous to supply a tank as part of the vehicle frame, and particularly as a cross member because it is an effective utilization of a space. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the frame structure of Pierce et al. to include a cross member that is a tank, as taught by Kamio, in order to provide a compressed air supply that is an effective utilization of space.

5. Claims 4-8 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce et al. (US 5,642,896) in view of Kamio (JP 9-2323 and attached English language abstract) as applied to claim 3 above, and further in view of Billinghamst (US 1,198,885.) Pierce et al. in view of Kamio is discussed above, and fails to teach a cylindrical-shaped vessel. Billinghamst teaches that it is known to provide cylindrically shaped vessels mounted between frame members. It would have been obvious to one having ordinary skill in the art at the time of the invention to use a cylindrically shaped vessel, as taught by Billinghamst, on the vehicle of Pierce et al. in view of Kamio,

Art Unit: 3616

because cylindrically shaped pressure vessels are easy to manufacture. Additionally it has been held that a change in shape is well within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Regarding claim 5, each end of the cylindrical vessel of Billingham is secured to bracket means. Regarding claims 5-7, one practicing the teaching of Billingham would know to secure the cylinder to the main members, and as such (indirectly) secure them to the hangers. Regarding claims 11, the location of the tank adjacent the air springs would have been obvious to one having ordinary skill in the art because such a location would require less auxiliary piping, and hence be cheaper. Additionally, and regarding claims 13 and 14, it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. Regarding claim 12, as broadly claimed, the vessel extends between and is attached to the hangers, indirectly via the main frame members. Regarding claim 8, it would have been obvious to one having ordinary skill in the art at the time of the invention to replace more than one cross member with a tank, in order to provide a larger or redundant capacity.

Allowable Subject Matter

6. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carlstedt, Muller et al., Laisne, Norrie, Chieger, Gouirand, Pradel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673.

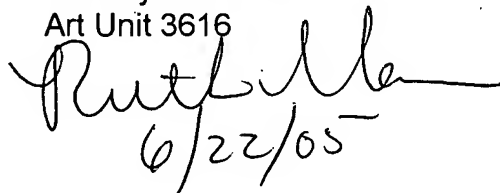
The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RI
6/22/05

Ruth Ilan
Primary Examiner
Art Unit 3616



6/22/05